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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,884	05/29/2001	F. Thomson Leighton	12293:22	5590

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EXAMINER

GOLD, AVI M

ART UNIT PAPER NUMBER

2157

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/866,884		LEIGHTON ET AL.	
	Examiner		Art Unit	
	Avi Gold		2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/3/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the amendment filed on May 3, 2006. Claims 1, 5, and 7 were amended. Claims 1-7 are pending.

Response to Amendment

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Croslin, U.S. Patent No. 6,295,727, in view of Beurket et al., U.S. Patent No. 6,122,666, further in view of Swildens et al., U.S. Patent No. 6,484,143.

Croslin teaches the invention substantially as claimed including dynamic route generation for real time network restoration using a pre-plan generation methodology (see abstract).

As to claim 1, Croslin teaches a method of mapping the Internet to generate an optimized set of proxy points in a local name server address space, comprising:

for a given pair of data centers, executing a route over the Internet from each data center to a given local name server (col. 3, lines 61-65, Croslin discloses a

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telecommunications network; col. 4, lines 28-33, Croslin discloses a restoral route generator); and

locating an intersection of the routes at a common routing point (col. 8, lines 18-21, Croslin discloses an intersection table).

Croslin fails to teach the limitation further including assigning an Internet Protocol (IP) address of the common routing point as a proxy point in the local name server address space, the data centers being accessible over the Internet, and physically executing a trace route.

However, Beurket teaches a plurality of proxy servers which furnish transformations of network data based upon the source of the data request (see abstract). Beurket teaches the use of a proxy node identified by its IP address (col. 5, lines 44-50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Croslin in view of Beurket to assign an Internet Protocol (IP) address of the common routing point as a proxy point in the local name server address space. One would be motivated to do so because an IP address allows for efficient access to a node.

Croslin and Beurket fail to teach the limitation further including the data centers being accessible over the Internet and physically executing a trace route.

However, Swildens teaches a user device and system for traffic management and content distribution over a world wide area network (see abstract). Swildens

teaches the use of traceroutes and global load balancing across multiple origin sites (col. 5, lines 58-67, col. 10, lines 14-17).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Croslin and Beurket in view of Swildens to have data centers being accessible over the Internet and physically executing a trace route. One would be motivated to do so because it is a good way to test for performance and availability to be able to weight the traffic properly (col. 16, lines 8-17)

Regarding claim 3, Croslin teaches the method as described in claim 1 wherein the common routing point is a first common point when viewed from a perspective of the data centers (fig 10; col. 8, lines 52-65, Croslin discloses the way the intersection table is built).

Regarding claim 4, Croslin teaches the method as described in claim 1 wherein the common routing point is a last common point when viewed from a perspective of the given local name server (fig 10; col. 8, lines 52-65).

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Croslin, Beurket, and Swildens further in view of Guenthner et al., U.S. Patent No. 6,360,262.

Croslin teaches the invention substantially as claimed including dynamic route generation for real time network restoration using a pre-plan generation methodology (see abstract).

As to claim 2, Croslin teaches the method of claim 1.

Croslin fails to teach the limitation further including the method as described in claim 1 wherein the data centers are mirror sites that host content from at least one content provider.

However, Guenthner teaches a method of routing client requests to specified server objects using a server resource-to-IP port mapping scheme (see abstract). Guenthner teaches the use of mirror sites (col. 3, lines 36-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Croslin in view of Guenthner to use mirror sites. One would be motivated to do so because it makes content more quickly available and reduces load on the source site.

Claims 5-7 do not teach or define any new limitations above claims 1-4 and therefore are rejected for similar reasons.

Response to Arguments

4. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,256,295 to Callon et al.

U.S. Pat. No. 5,944,769 to Musk et al.

U.S. Pat. No. 6,757,740 to Parekh et al.

U.S. Pat. No. 6,725,253 to Okano et al.

U.S. Pat. No. 5,926,463 to Ahearn et al.

U.S. Pat. No. 6,295,727 to Croslin

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avi Gold whose telephone number is 571-272-4002. The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

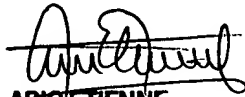
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Avi Gold

Patent Examiner

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AMG


ARIO ETIENNE
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